

## Federal Maritime Commission

## § 502.64

under unusual circumstances and for good cause shown, reparation will not be awarded upon a complaint in which it is not specifically asked for, nor upon a new complaint by or for the same complainant which is based upon a finding in the original proceeding. Wherever a rate, fare, charge, rule, regulation, classification, or practice is involved, appropriate reference to the tariff should be made, if possible.

(c) If the complaint fails to indicate the sections of the acts alleged to have been violated or clearly to state facts which support the allegations, the Commission may, on its own initiative, require the complaint to be amended to supply such further particulars as it deems necessary.

(d) The complaint should designate the place at which hearing is desired.

(e) Complainant(s) must state whether informal dispute resolution procedures were used prior to filing the complaint and whether complainant(s) consulted with the Commission Dispute Resolution Specialist about utilizing alternative dispute resolution (ADR) under the Commission's ADR program.

(f) A form of complaint is set forth in Exhibit No. 1 to this subpart.

(g) The complaint shall be accompanied by remittance of a \$221 filing fee.

(h) Complainants desiring to use the discovery provisions of subpart L must commence discovery at the time the complaint is filed, pursuant to § 502.201(b).

(i) For special types of cases, see § 502.271 in subpart Q (Refund or waiver of freight charges); subpart K (Shortened Procedure); and subpart S (Small Claims). [Rule 62.]

[49 FR 44369, Nov. 6, 1984, as amended at 55 FR 28399, July 11, 1990; 63 FR 50535, Sept. 22, 1998; 64 FR 7808, Feb. 17, 1999; 66 FR 43513, Aug. 20, 2001; 67 FR 39859, June 11, 2002; 70 FR 10329, Mar. 3, 2005]

### § 502.63 Statute of limitations for reparations.

(a) Complaints seeking reparation pursuant to section 11 of the Shipping Act of 1984 (46 U.S.C. 41301-41302, 41305-41307(a)) shall be filed within three years after the cause of action accrues.

(b) The Commission will consider as in substantial compliance with a stat-

ute of limitations a complaint in which complainant alleges that the matters complained of, if continued in the future, will constitute violations of the shipping acts in the particulars and to the extent indicated and in which complainant prays for reparation accordingly for injuries which may be sustained as a result of such violations. (See §§ 502.251-502.253 and Exhibit No. 1 to subpart O.)

(c) Notification to the Commission that a complaint may or will be filed for the recovery of reparation will not constitute a filing within the applicable statutory period.

(d) A complaint is deemed filed on the date it is received by the Commission. [Rule 63.]

[49 FR 44369, Nov. 6, 1984, as amended at 64 FR 7808, Feb. 17, 1999; 74 FR 50715, Oct. 1, 2009]

### § 502.64 Answer to complaint; counter-complaint.

(a) Respondent shall file with the Commission an answer to the complaint and shall serve it on complainant as provided in subpart H of this part within twenty (20) days after the date of service of the complaint by the Commission or within thirty (30) days if such respondent resides in Alaska or beyond the Continental United States, unless such periods have been extended under § 502.71 or § 502.102, or reduced under § 502.103, or unless motion is filed to withdraw or dismiss the complaint, in which latter case, answer shall be made within ten (10) days after service of an order denying such motion. Such answer shall give notice of issues controverted in fact or law. Recitals of material and relevant facts in a complaint, amended complaint, or bill of particulars, unless specifically denied in the answer thereto, shall be deemed admitted as true, but if request is seasonably made, a competent witness shall be made available for cross-examination on such evidence. An answer to the complaint must be verified.

(b) In the event that respondent should fail to file and serve the answer within the time provided, the presiding officer may enter such rule or order as may be just, or may in any case require such proof as he or she may deem proper, except that the presiding officer